



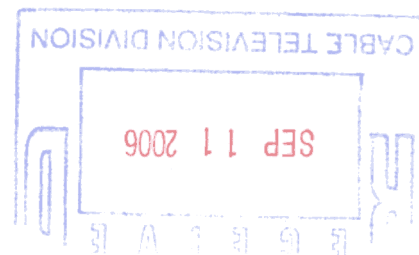
Town of Sherborn

SHERBORN, MASSACHUSETTS 01770

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James W. Murphy, Chairman
Paul R. DeRensis, Vice Chairman
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September 11, 2006



Cable Television Division
Department of Telecommunications and Energy
One South Station
Boston, MA 02110

TOWN OF SHERBORN'S RESPONSE TO CABLE DIVISION'S REQUEST FOR REPLY COMMENT

Question 1 - Who initially reviews cable license applications on behalf of the Issuing Authority in deciding whether to begin the licensing process pursuant to 207 CMR Section 3.02(2)? How soon after receipt of the application does this review begin?

Answer 1 - The Sherborn Board of Selectmen (hereinafter "BOS"), together with the Town Administrator, with input from the Cable Advisory Committee initially reviews cable licensing applications. The BOS has the final authority to decide whether to begin the licensing process. In Sherborn's case "review" began within thirty (30) days of receipt of Verizon's application. However, the BOS also sought comments from its Cable Advisory Committee and voted to hire special town counsel to assist in the negotiation and review process. "Review" was hampered by the fact that the application itself was not fully responsive in that it did not include sufficient financial detail as to what the Licensee was prepared to offer the community but rather had much boilerplate information. Additionally, review was hampered in that Verizon did not identify with specificity those differences it would be seeking from the format of the earlier granted License to another carrier. Although Verizon generally made reference to a "level playing field" it did not indicate with particularity how it was going to deliver on that concept. This made the "review" process somewhat illusory. In our case, even after Verizon filed an amended application there was a paucity of financial information.

Question 2 - Has the municipality established a Cable Advisory Committee? Is this a standing committee? When is the committee in session? How often does the committee

meet? What are the terms of its members? Who may serve on the committee? How soon after a cable license application is submitted does the Cable Advisory Committee receive application materials and begin its review?

Answer 2 - Sherborn has a standing Cable Advisory Committee that meets on a regular periodic basis. Typically members serve three year terms and are residents of Sherborn. Notice that submitted license application is ready for review goes out to the committee by email contemporaneously with its receipt. Review per se occurs when the committee next meets. The committee typically communicates its recommendations by email or at a BOS meeting.

Question 3 - Does the municipality have a city solicitor or town counsel? Who represents the municipality in negotiations with the cable license applicant? How soon after a cable license application is submitted to the municipality does the negotiator receive application materials and commence negotiations? Does the negotiator have direct authority to offer final terms that may be included in a license to be executed by the municipality? If not, please describe the steps necessary to authorize proposed term sheets?

Answer 3 - Sherborn has Town Counsel. For cable licenses it has typically in the past retained special Town Counsel to conduct negotiations and make recommendations to the BOS. Hiring of special Town Counsel requires a specific vote by a majority of the BOS. With a license already in place, special Town Counsel had broad authority to negotiate "par" terms with the new licensee in comparison to the existing license. However, special town counsel's ability to fully negotiate with Verizon was hampered by the failure of Verizon to include with its application sufficient details about its financial proposal. As such, special Town Counsel could not be given specific direction about that aspect of negotiations. In our case, this required special Town Counsel to speculate as to what Verizon would offer based on experience in other communities and to repeatedly come back to the BOS about this aspect of the negotiation. As such, in Sherborn, a member of the Board of Selectmen and a member of the Cable Advisory Committee agreed to join with special Town Counsel to conduct face to face negotiations with Verizon. Both the Selectmen and the Cable Advisory representative took time from their regular employment to participate in these negotiations. Verizon did not during these negotiations have available a full financial proposal for action by the Sherborn negotiating team. Special Town Counsel was given broad authority over items that were actually included or fully disclosed by Verizon; items in which Verizon was not fully responsive required additional work by the BOS, Cable Advisory and Special Town Counsel so that sufficient authority could be given as to acceptable terms.

Question 4 - Is there any period of time wherein a Mayor or Board of Selectmen lacks authority to execute a contract on behalf of the community?

Answer 4 - The Sherborn BOS is unaware of any limit on the time of year during which it could execute an otherwise valid license for the Town. However, functionally the BOS

would likely during the month of May wait until a newly elected Selectmen had an opportunity to express its view on a proposed license. Additionally, if a license was for a term greater than the term for which the Selectmen had authority to sign, the BOS would have to obtain specific approval from Town Meeting to enter into such a license. In Sherborn, there is typically one Town Meeting per year in April.

Question 5 - Many municipalities commented that 90 days is not sufficient to conduct a review of an initial license application. Please state whether there are any provisions of the current licensing process that may be streamlined and, if so, please identify such provisions.

Answer 5 - First, of all, the assumption that volunteer Town officials (Selectmen, Cable Advisory Committee) are at all fluent with all of the cable regulations is a very poor assumption which does not reflect the differences in knowledge that the cable companies have and the communities have with respect to the process. Secondly, in Sherborn, there is a three member Board of Selectmen. Under the open meeting law, no deliberations of any kind can happen except at a posted public meeting. The Selectmen in Sherborn typically meet every other Tuesday. As such telescoping any review period puts untoward and unnecessary pressure on the BOS to quickly acquire fluency as to the process and substance of an important community issue. Missteps either in process or substance could have severe adverse and unintended consequences. For example, if a second licensee gets a "better" license, the municipality could subject itself to claims from the first licensee. To the extent that the second licensee receives a "worse" license, the municipality subjects itself to a claim by the second licensee. All of this pressure comes at a time when the municipality may not have first obtained a complete offer from the second Licensee that it can clearly compare to the previously granted license or can determine whether it is, if not equal, equivalent or comparable to the first license. The municipality needs the benefit of special Town Counsel, needs the input of its Cable Advisory Committee, and, in our case, needed the assistance of a technology consultant. Even then, after nearly a year and a half did not have full knowledge of Verizon's financial offer or whether Verizon's proposal was technically feasible and could be integrated with the existing equipment of the first licensee to assure delivery to the homes of the community's residents.

If the Licensing Division is considering time limits, it needs to make sure that those time limits are related to the licensee providing the municipality with a **complete** financial offer as well as a delineation of those aspects of the existing license for which it seeks a variance.

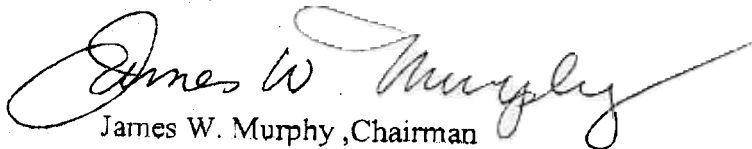
Question 6. Please provide a typical timeline of all steps necessary to identify the community's cable related needs and interests and to issue the issuing authority report or request for proposal? Please indicate intervals between notices and public hearings, as well as the approximate number of days necessary for each step.

Answer 6 - Sherborn was able to issue an Issuing Authority on or about October 13, 2005 after receipt of Verizon's application on June 29, 2005. Verizon then submitted an

amended application on or about December 12, 2005. Sherborn's Issuing Authority report included information provided by its technology consultant. Thereafter, from December through approximately May the parties were in negotiations primarily about the terms of the proposed license. Verizon did not make a formal proposal as to financial terms during that period, claiming in part that it wanted the other provisions resolved before making financial commitments. Sherborn was quite responsive to requests for meetings. Had there been a deadline it would not have made things better but likely would have created conflict.

Questions 7 and 8 - Please see earlier answers. Please also note that the response to these questions again comes from a volunteer board in a short window of time without a full opportunity for public discussion of these responses and additional input. The BOS has a large responsibility to its townspeople that should be honored and respected. Any shortening of the time periods for review only heightens the pressure on the volunteer boards without a corresponding benefit to its townspeople.

Sincerely,

A handwritten signature in cursive script, reading "James W. Murphy". The signature is fluid and extends across the width of the text area below it.

James W. Murphy, Chairman
Sherborn Board of Selectmen